

**THE ALABAMA PREPAID AFFORDABLE COLLEGE TUITION PROGRAM
MEETING OF THE BOARD OF DIRECTORS
May 23, 2012**

MINUTES

Present:

Treasurer Young Boozer, Chairman
Senator Roger Bedford
Dr. Greg Fitch
Ms. Karen Gandy
Mr. Marc Green
General Paul Hankins, Vice Chair
Dr. Richard Huckaby
Ms. Patti Lambert
Leigh Grogan for Chancellor Susan Price
Dr. William Meehan
Mr. Jimmy Stubbs
Mr. Mark Sullivan

Absent:

Ms. Gwen Appling
Dr. Marquita Davis
Representative Craig Ford

Others present include:

Ms. Daria Story, Assistant Treasurer
Ms. Brenda Emfinger, College Savings Programs Director
Mr. Chad Wright, Staff
Mr. Chad Bryan, Capell & Howard
Mr. Barry Bryant, Dahab Associates

Agenda Item 1.

Pursuant to written and public notice, the quarterly meeting of the Board of Directors of the PACT Program was held in the Board Room of the RSA Headquarters on May 23, 2012. The meeting was called to order by Chairman Young Boozer at 1:05 p.m. Roll was taken with a quorum present.

Agenda Item 2.

Chairman Boozer presented the minutes of the February 22, 2012 board meeting. A motion was made by Dr. Meehan, seconded by Mr. Stubbs, for approval as presented. The motion was unanimously approved.

Agenda Item 3. (A.)

Chairman Boozer asked Ms. Emfinger for a program report. Ms. Emfinger provided information on program statistics, cancellations, trust fund assets, and the budget. Ms. Emfinger reported that for Spring 2012 over \$36.1 million had been paid to various institutions on behalf of over 11,050 students.

Agenda Item 3. (B.)

Chairman Boozer called on Barry Bryant from Dahab to give the quarterly investment report. Mr. Bryant stated that performance for the previous quarter was very good for an all bond portfolio, returning 2%, which placed the portfolio in the top percentile of similar portfolios. He explained that the past quarter was a "risk on" quarter with stocks doing well but that going

forward it would likely be a “risk off” market. Both managers added value and outperformed their respective benchmarks. The MacKayShields core plus portfolio had the best performance.

Agenda Item 3. (C.)

Chairman Boozer provided a copy of the Quarterly Actuarial Valuation, performed by Mr. Dan Sherman. Mr. Boozer stated that as of 3/31/12, the fund was 104.4% funded with a surplus of \$34.9 million, assuming the litigation settlement is upheld by the Alabama Supreme Court. He also shared with the Board various scenarios assuming the settlement was rejected, all of which resulted in deficit funding. The various scenarios were explained in relationship to the different tuition increase assumptions.

Chairman Boozer then discussed information from Mr. Sherman which provided the historical tuition/fee increases, based on weighted average tuition. The Board discussed, at length, the tuition increase assumption to be used in any valuations needed prior to the August board meeting when all assumptions would be discussed and adopted. Dr. Meehan provided information on current year increases, as well as future legislative funding for higher education. Senator Bedford discussed the impact of future funding for higher education due to the rolling reserve budget calculation for ETF. After discussion, a motion was made by Mr. Sullivan to use a tuition assumption with a 10% increase for 2013, 9% for 2014 and 8% thereafter. The motion was seconded by Dr. Meehan with unanimous approval.

Agenda Item 3. (D.)

Chairman Boozer provided information on various bills introduced during the previous legislative session and a copy of HB 603 which passed. He explained the impact of this bill on the pending request for reconsideration by the Supreme Court.

Agenda Item 3. (E.)

Chairman Boozer called on Chad Bryan for the legal report. Mr. Bryan reported that HB 603 was passed to repeal Section 19 of Act 2010-725 and to provide authority for the Board to enter into an agreement with PACT purchasers. HB 603 was a major consideration in the request asking the Supreme Court to reconsider the proposed settlement. He then discussed a demand from opposing legal counsel to evaluate any claims against third parties associated with PACT. He stated that this was a pending legal matter that should be suggested be discussed in Executive Session.

Dr. Huckaby asked if the modification of contract terms was a reason for the rejection of the settlement by the Supreme Court. Mr. Bryan stated that the next ruling by the Supreme Court should be more informative about this issue.

Ms. Lambert asked if the fee paid to the class action attorneys had been returned. Mr. Bryan stated that a demand had been made to return the funds but that there was no binding mechanism to compel the repayment until the ruling was final.

Dr. Huckaby asked if the Board had the authority to cancel all contracts. Mr. Bryan stated that this was a matter for discussion in Executive Session.

Agenda Item 4.

Chairman Boozer informed the Board that the Litigation Committee had met with legal counsel of Burr Forman to discuss the demand from opposing counsel. Chairman Boozer stated that the committee recommends to the Board that no legal action be taken against third parties. A motion was then made by Dr. Meehan and seconded by Senator Bedford to enter into Executive

Session to discuss pending legal matters. Chairman Boozer discussed the Bylaws and procedures relating to Executive session. He announced that the meeting would resume after Executive Session which was expected to last approximately an hour. Ms. Emfinger called the roll with all members voting to go into Executive Session. Mr. Bryan then stated that the Executive Session as requested met the requirements for the exception to the Open Meetings law.

Agenda Item 5.

At 2:45 the Board meeting resumed. General Hankins reported that the Litigation Committee had examined the historic operations of the PACT Program, including the roles of the various consultants, actuaries, and managers. The committee also met with legal counsel, Burr Forman. In light of the surrounding circumstances, the likelihood of recovery, and the associated costs, the Litigation Committee is of the opinion that there is not a sufficient basis to pursue any claims related to Trust Fund losses and that it would not be prudent to initiate litigation. Senator Bedford then moved to accept the recommendation of the Litigation Committee to not pursue legal action against Callan or other third parties. Dr. Meehan seconded the motion. The motion was unanimously approved with Dr. Fitch abstaining.

Agenda Item 6.

There was no further business to be discussed and the meeting adjourned at 3:05 p.m.

All materials discussed are attached for reference.

Chad Wright, Recording Secretary

Chairman Young Boozer